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Selectmen's Minutes 05-28-2008

TOWN OF ARLINGTON BOARD OF SELECTMEN

Meeting Minutes
 Wednesday, May 28, 2008
 7:15 p.m.

JOINT BOARD OF SELECTMEN & REDEVELOPMENT BOARD MEETING

Present: Ms. Rowe, Chair, Mr. Hurd, Vice Chair, Mrs. Mahon, Mr. Greeley and Ms LaCourt

Also Present: Mr. Sullivan, Mr. Maher and Mrs. Krepelka

Redevelopment Board members present:

Andrew West, Chair, Roland Chaput, Bruce Fitzsimmons, and Christopher Loreti

Absent: Edward Tsoi

Also Present: Kevin O'Brien Director of Planning and Redevelopment

Mr. John Worden, Secretary Arlington Historic District Commissions

1. Discussion: Subdivision Control/Board of Survey
 Clarissa Rowe, Chair/John F. Maher, Town Counsel
 (tabled from 5/21/08 meeting)

Attorney Jay Wickersham, Noble & Wickersham LLP appeared before the Board to discuss the overview of the proposed Arlington Board of Survey Law/Home Rule Legislation/Subdivision Control Law. Attorney Wickersham said the intent of this proposed law is to create a fair and efficient system to review the impacts of small-scale residential subdivisions (fewer than 6 units), replacing the current Board of Survey law that was adopted in 1897, but without imposing the complexities and costs of the state subdivision control law, M.G.L. Ch. 41 Subsection 81K – 81GG (the "SCL").

The current board of survey law was adopted in 1897, and it has remained essentially unchanged ever since. The law has significant drawbacks. It limits the board's jurisdiction to the location, direction, width and grade of roadways, so that the board cannot review utilities, drainage, or environmental issues. The burden of review is placed on the Board of Selectmen.

Although the SCL does provide a broader scope of review, it too has drawbacks that make it less than desirable for the town. The SCL contains detailed and complex requirements for multiple stages of plan review, and for the recording of those plans, that are more appropriate for very large subdivisions with 100 or more lots. The SCL is not explicit on a board's ability to review environmental issues. Review under the SCL is entirely independent of zoning review, imposing the costs of multiple procedures on the same project. Finally, the SCL contains the longest provisions for vested rights of any statute in the entire country (8 years) – potentially frustrating the ability of the town to implement sound new land use policies through changes in its zoning. For these reasons, the proposed law adopts the most valuable provisions of the SCL, but in a form that is much shorter, simpler, and more efficient. The proposed law contains 13 sections, as opposed to 23 sections in the SCL, and the text is only about one-third the length of the SCL. However, the law does adopt wherever possible the language of the SCL, so that all parties can look to current practice and prior court decisions under the SCL in interpreting the proposed law. Here are key provisions of the proposed law:

- The law is a regulatory system, requiring review and approval of developments by the Arlington Redevelopment Board (the “board”), in its capacity as the town’s Board of Survey. A certified copy of the board’s decision would be recorded with the registry of deeds, in the same manner as a zoning special permit.
- The law affects the same types of development as the SCL: subdivisions of land into two or more lots, where the lots do not have adequate access and frontage from an existing way. Like the SCL, the law would not require review of the subdivision of “approval not required (ANR)” lots that have adequate existing frontage.
- Like the SCL, the law would involve the review of roadways, utilities, drainage, and other site improvements. The law is more explicit than the SCL in addressing the protection of environmental resources, and in furthering the goals of the town’s plans and policies.
- Developments that already are subject to board review under zoning, through a special permit or other process (including all residential projects with 6+ units), would consolidate their review with the zoning process, and the procedures and timelines of zoning would govern.
- The law provides for more limited vested rights of approved developments, compared with the SCL: approved developments would be protected against subsequent zoning changes for a period of three years from the date of approval.

The Board of Selectmen thanked Attorney Wickersham for his input, John Worden and the Redevelopment Board for working together to bring this Article before Town Meeting.

Mr. Hurd moved to adopt Article 16 Home Rule Legislation/Subdivision Control Law.

SO VOTED (5-0) Selectmen Hurd recommended that the Arlington

Redevelopment Board take a vote of support of the Board of Selectmen’s recommendations on Article 16.

Mr. Chaput, Redevelopment Board, moved approval.

SO VOTED (3-1)

Mr. Loreti voted in the negative due to the fact that he wanted to propose some amendments to the Town Meeting.

Mrs. Mahon moved to adjourn at 7:50 p.m.

SO VOTED (5-0)

A True Record: Attest:

Marie A. Krepelka
Board Administrator